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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,720	01/30/2006	Barend Visscr	050588/295500	8410
826	7590	01/23/2008	EXAMINER	
ALSTON & BIRD LLP			GOODWIN, DAVID J	
BANK OF AMERICA PLAZA				
101 SOUTH TRYON STREET, SUITE 4000			ART UNIT	PAPER NUMBER
CHARLOTTE, NC 28280-4000			2818	
			MAIL DATE	DELIVERY MODE
			01/23/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Advisory Action Before the Filing of an Appeal Brief</b>	Application No.	Applicant(s)
	10/542,720	VISSE ET AL.
	Examiner David Goodwin	Art Unit 2818

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 November 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1.  The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- The period for reply expires 4 months from the mailing date of the final rejection.
- The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2.  The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

- They raise new issues that would require further consideration and/or search (see NOTE below);
- They raise the issue of new matter (see NOTE below);
- They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

- The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
- Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
- Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
- For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-19.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

- The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
- The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

- The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

- The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_
- Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_
- Other: attached response to arguments.

STEVEN LOKE  
SUPERVISORY PATENT EXAMINER



Continuation of 3. NOTE: the amended portion of claim 4 would require further search and consideration.

## DETAILED ACTION

### ***Response to Arguments***

1. Applicant's arguments filed 11/27/07 have been fully considered but they are not persuasive.
2. The applicant argues that the slope of the lines in the Williams reference does not anticipate the ratios of the application. The applicant supports this argument by arbitrarily drawing lines on the Williams figures.
3. The applicant will note that the applicant's arbitrary mark ups of the prior art does not change the teaching of the prior art. The teaching of the reference will be considered, not what the applicant would prefer that the prior taught.
4. In the present case the applicant argues that the slope of the second part of the graph (marked 12 by applicant) is steeper than the first portion (marked 10) by applicant. The prior art shows a translation of the dashed line thereby diagramming the performance of the device accounting for the change in gate to source capacitance. Under ideal circumstances the ration of  $C_{fiss}$  and  $C_{iiss}$  will be 1 which is what is diagramed by Williams.
5. Further, as the applicant notes segment (12) cannot be steeper than the first section, therefore it must be parallel to the first section in which case the ratio will be about 1.
6. The applicant would prefer that the prior art showed the segment (12) as being less steep than the first portion, however this is not what the prior art teaches and the applicant cannot change what is shown by the prior art.

7. The proportions of the drawings are not considered exactly to scale unless they are indicated as such (2125) therefore the applicant's assertions that the proportions of the lines are not exactly right are immaterial when the inference of the art is that they are ideal.

8. It is appreciated that the applicant notes, on page 9 of the arguments, that Williams reference is discussing ideal behavior.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Goodwin whose telephone number is (571)272-8451. The examiner can normally be reached on Monday through Friday, 9:00am through 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Loke can be reached on (571)272-1657. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DJG

STEVEN LOKE  
SUPERVISORY PATENT EXAMINER

